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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE PEOPLE,

Plaintiff and Respondent,

v.

EMANUEL FLORES,

Defendant and Appellant.

B266074

(Los Angeles County
Super. Ct. No. BA434767)

APPEAL from a judgment of the Superior Court of Los Angeles County, Craig E. Veals, Judge. Affirmed.

Law Office of Melissa A. Fair and Melissa A. Fair, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance by Plaintiff and Respondent.

Emanuel Flores appeals from a judgment of conviction for second degree robbery. (Pen. Code, § 211.)¹ Pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), appellant's counsel filed an opening brief requesting that this court review the record and determine whether any arguable issues exist on appeal. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

As required by *People v. Kelly* (2006) 40 Cal.4th 106, 124, we provide a brief description of the facts and procedural history of the case. The information charged appellant with one count of second degree robbery of Rosemary Zepeda and one count of second degree robbery of Roberto Gomez. The information also alleged appellant personally used a deadly and dangerous weapon within the meaning of section 12022, subdivision (b)(1).

The evidence at trial showed as follows. At approximately 10:40 p.m. on March 21, 2015, Zepeda and Gomez were working at a 7-Eleven store on Wilshire Boulevard in Los Angeles. Appellant walked into the store and went to the beer section. Zepeda was approximately four steps behind appellant when she saw him put a beer in his pocket. She asked him to "please take it out and put it where it belonged." Appellant refused and said he was going to throw things in the store. Zepeda was afraid; appellant smelled of alcohol and was using a "strong tone" with her. Zepeda followed him to the door of the store but did not try to take the beer from appellant because she was scared. Appellant said, "If you want it, go ahead and take it," in a mocking tone. He tried to open one side of the door and, upon finding it locked, pulled a blade out of his pocket. (The blade turned out to be a box cutter.)

Zepeda became more frightened, as she was within arm's reach of appellant. Gomez also became scared when he saw the blade, both for himself and for Zepeda. Zepeda told Gomez that appellant had a blade and went to the telephone by the cash register to call the police. Gomez, who was working the cash register, grabbed a kitchen

¹ Further undesignated statutory references are to the Penal Code.

knife and told appellant several times to return the beer and leave. Gomez was not trying to use the knife and did not point it at appellant; he hoped it would simply make appellant leave. Appellant said to Gomez, “Where are you from, homey?,” and asked him to step outside. Gomez was scared and refused to go outside with him.

Appellant never returned the beer or paid for it. Instead, he went outside and drank it. He kept the blade in his hand. Outside, appellant yelled aggressively at Gomez to “come out” and used profanity. When the police officer arrived and took appellant into custody, he was belligerent, yelling and cursing at the officer and challenging him to fight.

The jury convicted appellant of both counts of robbery and found the weapon allegation to be true. The court sentenced appellant to three years in county jail, consisting of the low term of two years on the first count, plus one year for the weapon enhancement, and the same sentence on the second count, imposed concurrently. The court also imposed various fines and fees and gave appellant 156 days of custody credit (136 actual days in custody, plus 20 days of conduct credit).

DISCUSSION

We appointed counsel to represent appellant on this appeal. As noted above, appellant’s counsel filed an opening brief asking this court to review the record independently pursuant to *Wende, supra*, 25 Cal.3d at page 441. We advised appellant of his right to submit any contentions or issues that he wished us to consider. Appellant did not file a supplemental brief. Having examined the entire record, we are satisfied no arguable issues exist and appellant’s counsel has fully satisfied her responsibilities under *Wende*. (*Smith v. Robbins* (2000) 528 U.S. 259, 279-284; *People v. Kelly, supra*, 40 Cal.4th at pp. 123-124; *Wende, supra*, 25 Cal.3d at p. 441.)

DISPOSITION

The judgment is affirmed.

FLIER, J.

WE CONCUR:

BIGELOW, P. J.

GRIMES, J.